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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,251	05/31/2001	Holgers Eggert	MO-6276/WW-5	4221

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EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

11

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/807,251

Applicant(s)

EGGERS ET AL.

Examiner

Kevin R Kruer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. Applicant's election with traverse of Group I, claims 1-6 in Paper No. 10 is acknowledged. The traversal is on the ground(s) that any search for the film itself is certain to include a search of the process for making and using it. This is not found persuasive because the examiner does not have to show that an extra search/burden would be required if both inventions were searched. When restricting a 371 application, the examiner only has the burden of showing that all the claims do not contain a special technical feature.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Maxfield et al (US 5,385,776). Maxfield teaches a composite formed from a gamma phase polyamide having dispersed therein a particulate material (abstract). The particulate material is selected from the group consisting of layered and fibrillar materials having a diameter of less than 10.0 microns, more preferably from 5.0-1.0 microns (col 3, lines 5+). The average length of the fibrillar material is usually less than 200.0 microns, preferably 20.0-200 microns (col 3, lines 15+). The particulate material increase the gamma content of the polymer (col 3, lines 62+) and is included in amounts

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of less than 0.5% by weight of the matrix (col 3, lines 67+). Since the particulate material increases the crystalline content of the matrix, the examiner considers the particulate to be a nucleating agent. The particles are also anisotropic (col 1, lines 8+). The matrix may comprise nylon 6 (i.e., epsilon caprolactam) (col 1, lines 51+). The composite may be used in film laminates (col 12, lines 27+) such as packaging films.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goehring et al (US 3,791,915) in view of Maxfield et al (US 5,385,776). Goehring teaches a packaging laminate (col 1, lines 5+) comprising a layer of polyamide polymer, a layer of a blend of polyethylene and an ionic copolymer, and a layer of ionic copolymer (abstract). Additional polyamide layers may be applied to either side of the laminate (col 5, lines 38+).

Goehring does not teach that the polyamide should comprise the claimed composition. However, Maxfield teaches a composite formed from a gamma phase polyamide having dispersed therein a particulate material (abstract). The particulate material is selected from the group consisting of layered and fibrillar materials having a diameter of less than 10.0 microns, more preferably from 5.0-1.0 microns (col 3, lines 5+). The average length of the fibrillar material is usually less than 200.0 microns,

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preferably 20.0-200 microns (col 3, lines 15+). The particulate material increase the gamma content of the polymer (col 3, lines 62+) and is included in amounts of less than 0.5% by weight of the matrix (col 3, lines 67+). Since the particulate material increases the crystalline content of the matrix, the examiner considers the particulate to be a nucleating agent. The particles are also anisotropic (col 1, lines 8+). The matrix may comprise nylon 6 (i.e., epsilon caprolactam) (col 1, lines 51+). The composite may be used in film laminates (col 12, lines 27+) such as packaging films, and exhibits improved rigidity and water resistance strength (col 1, lines 51+). Thus, it would have been obvious to utilize the composition of Maxfield in the laminate taught in Goehring because said composition exhibits improved rigidity and water resistance strength.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 703-305-0025. The examiner can normally be reached on Monday-Friday from 7:00a.m. to 4:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau, can be reached on (703) 308-2367. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

krk

KRK

  
Paul Thibodeau  
Supervisory Patent Examiner  
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